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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,706	09/12/2003	Thomas O. Holtey	16128BAUS01U	8232
34645	7590	03/13/2008		
Anderson Gorecki & Manaras, LLP Attn: John C. Gorecki P.O BOX 553 CARLISLE, MA 01741			EXAMINER TURNER, ASHLEY D	
			ART UNIT 2154	PAPER NUMBER
			NOTIFICATION DATE 03/13/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

john@gorecki.us
jgorecki@smmalaw.com

Office Action Summary

Application No.

10/661,706

Applicant(s)

HOLTEY, THOMAS O.

Examiner

Ashley D. Turner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/12/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/31/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-6 are rejected under U.S.C. 101 because the claimed invention is directed to non- statutory subject matter.

Independent claim 1 is drawn towards a method for selectively reading counter information in a network device, the method comprising the step of: setting a first ripeness indicator associated with a first counter when the first counter reaches a particular value; reading the first counter in response to setting of the first ripeness indicator. In order for a method claim to be statutory, it must result in useful, concrete, and tangible results. In this instance also, the claim doesn't say what happens after the reading takes place or the usefulness of this reading is not told. There is no tangible result of the method claimed in the case of when the first counter doesn't reach a particular value reading the first counter in response to setting of the first ripeness indicator".

Claims 2-6, which are dependent on claim 1, do not add tangible results to the claim and thus are rejected for the same.

Claim Objections

3. Claims 9 is objected to because of the following informalities:

In claim 9 line 2 "ripeness indicators" applicant should change correction to – the ripeness indicators.

In claim 9 line 2 the word "counters" applicant should change correction to – the counters.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1-9 and 15 are rejected under 35 U.S.C. 102 (a) as being anticipated by Sumida et al hereinafter Sumida (US 4,912,703).

Referring to claim 1, a method for selectively reading counter information in a network device the method comprising the steps of setting a first ripeness indicator i.e.

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predetermine limit associated with a first counter i.e. traffic amount counter when the first counter reaches a particular value i.e. predetermined limit; reading the first counter in response to setting of the first ripeness indicator (Abstract lines 2-9).

Referring to claim 2, Sumida discloses all the limitations of claim 2 which is described above. Sumida further discloses resetting the first ripeness indicator to a default value i.e. predetermine limit (Abstract lines 8-9).

Referring to claim 3, Sumida discloses all the limitations of claim 3 which is described above. Sumida further discloses comprising reading at least a second counter i.e. retransmission counter in response to setting of the first ripeness indicator. (Abstract lines 5-17).

Referring to claim 4, Sumida disclose all the limitations of claim 4 which is described above. Sumida further discloses setting the first ripeness indicator when a second counter reaches a particular value (Abstract lines 9-13).

Referring to claim 5, Sumida disclose all the limitations of claim 5 which is described above. Sumida further discloses dynamically adjusting the particular value (Col. 4 lines 46-51 If the region designation A after incrementing by region count 22 exceeds nine in the embodiment of Fig. 3, the region designation A is reset to an initial value of zero.)

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Referring to claim 6, Sumida disclose all the limitations of claim 6 which is described above. Sumida further discloses wherein the counter is configured to measure at last one aspect of data traffic received by the network device i.e. bus line from a communications network i.e. I/O interface. (Col. 4 lines 1-5), (Col. 5 lines 44-51), (Col. 5 line 62 –64).

Referring to claim 7, Sumida disclose all the limitations of claim 7 which is described above. Sumida further discloses counting, by the network device, data traffic received by the network device; and utilizing the first counter to record at least one aspect of the data traffic received by the network device. (Col. 4 lines 21-24 The traffic amount counter computes the traffic amount number N_t corresponding to the amount of broadcast data present on the transmission line during a unit time period T ,) (Col. 4 lines 56-65)

Referring to claim 8, Sumida discloses a network device, comprising: a forwarding engine configured to process data traffic received by the network device (Col 4. lines 46-50); counters configured to monitor aspects of data traffic received by the network device (Col.7 lines 59- 66); ripeness indicators associated with the counters indicative of fullness levels of at least some of the counters (Abstract lines 5-17); and control logic configured to harvest information i.e. read from the counters in response to the ripeness indicators (Abstract 9-13).

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Referring to claim 9, Sumida discloses all the limitations of claim 9 which is described above. Sumida further discloses the control logic is configured to read ripeness indicators (Abstract 5-7), ascertain which counters are ripe for harvesting i.e. ready to be read, and cause counters associated with those ripeness indicators to be harvested (Abstract 9-13).

Referring to claim 15, Sumida discloses all the limitations of claim 15, which is described above. Sumida also discloses a statistics coprocessor configured to interface with said counters (Col. 5 lines 45-51) and said control logic to enable meaningful statistics to be generated from values harvested from counters 9 Col. 5 lines 36-45).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 10 is rejected under 35 U.S.C 103(a) as being unpatentable over Sumida (US 4,912,703) and in view of Ching (US 4,095,052)

Referring to claim 10, Sumida discloses all the limitation of claim 10 which is described above. Sumida did not disclose comprise an array of bits, each bit representing at one

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of the counters. The general concept of having an array of bits, each bit representing at one of the counters is well known in the art as taught by Ching. Ching discloses array of bits, each bit representing at one of the counters (Col. 13 lines 66 –68). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Sumida to include array of bits, each bit representing at one of the counters in order to enable a counter to be used.

8. Claim 11 is rejected under 35 U.S.C 103(a) as being unpatentable over Sumida (US 4,912,703) and in view of Obremski (US 6,388,930 B1)

Referring to claim 11, Sumida discloses all the limitations of claim 11 which is described above. Sumida did not disclose subsets of said bits represent at least one of said counters. The general concept of having subsets of said bits represent at least one of said counters is well known in the art taught by Obremski. Obremski discloses subsets of said bits represent at least one of said counters (Col 3 lines 30-32). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Sumida to include subsets of said bits represent at least one of said counters in order to enable a counter to be used.

9. Claim 14 is rejected under 35 U.S.C 103(a) as being unpatentable over Sumida (US 4,912,703) and in view of Patra (US 6,816,489 B1)

Referring to claim 14, Sumida discloses all the limitations of claim 14, which is described above. Sumida did not disclose a switch fabric connected to the forwarding engine. The general concept of having a switch fabric connected to the forwarding engine is well known in the art as taught by Patra et al. Patra discloses a switch fabric connected to the forwarding engine (Col. 12 claim 7 lines 1-3 engine connected to a switch fabric). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Sumida to include a switch fabric connected to the forwarding engine in order to process packets received.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashley d. Turner whose telephone number is 571-270-1603. The examiner can normally be reached on Monday thru Friday 7:30a.m. - 5:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached at 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-270-2603.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patent Examiner:

Ashley Turner
Ashley Turner

Date: 2/27/08

Supervisory Patent Examiner

Nathan Flynn

Date: _____